

SENATE BILL 688

Unofficial Copy
P4

2004 Regular Session
4lr2420
CF 4lr3067

By: **Senator Hogan**
Introduced and read first time: February 6, 2004
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 30, 2004

CHAPTER _____

1 AN ACT concerning

2 **State Employees - Unused Annual Leave - Special Pay Plan**

3 FOR the purpose of establishing a Special Pay Plan for the purpose of allowing
4 certain State employees to contribute to a certain plan with tax-qualified status
5 under the Internal Revenue Code; requiring ~~the Comptroller, in consultation~~
6 ~~with the Secretary of Budget and Management, to administer the Special Pay~~
7 ~~Plan, Management or the Secretary's designee~~ to adopt certain ~~regulations, and~~
8 ~~regulations; requiring the Secretary or the Secretary's designee~~ to adopt,
9 implement, and maintain the Special Pay Plan qualified under the Internal
10 Revenue Code; requiring the ~~Comptroller~~ Secretary or the Secretary's designee
11 to hire certain entities; providing for the vesting of a participating employee in
12 the Special Pay Plan; providing for the distribution of a participating employee's
13 interest in the Special Pay Plan; providing for the duties of certain entities hired
14 by the ~~Comptroller~~ Secretary or the Secretary's designee; providing for the
15 indemnification of certain entities; requiring the Secretary of ~~Budget and~~
16 ~~Management or the Secretary's designee~~ to adopt regulations to establish
17 certain eligibility criteria for participants in the Special Pay Plan; requiring that
18 participation in the Special Pay Plan is mandatory; requiring the ~~Comptroller~~
19 Secretary or the Secretary's designee to make certain contributions to the
20 Special Pay Plan on behalf of certain employees; requiring the ~~Comptroller and~~
21 ~~Secretary of Budget and Management or the Secretary's designee~~ to adopt
22 regulations regarding the certain contributions to the Special Pay Plan; defining
23 certain terms; and generally relating to establishing a Special Pay Plan for State
24 employees.

25 BY adding to
26 Article - State Personnel and Pensions
27 Section 33-101 through 33-302, inclusive, to be under the new title "Title 33.

1 Special Pay Plan"
2 Annotated Code of Maryland
3 (1997 Replacement Volume and 2003 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - State Personnel and Pensions**

7 TITLE 33. SPECIAL PAY PLAN.

8 SUBTITLE 1. DEFINITIONS.

9 33-101.

10 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

11 (B) "DESIGNATED COMPANY" MEANS A COMPANY THAT ~~ON OR AFTER JULY 1,~~
12 ~~2004, WAS IS~~ DESIGNATED BY THE ~~COMPTROLLER~~ SECRETARY OR THE SECRETARY'S
13 DESIGNEE TO OFFER A SPECIAL PAY PLAN APPROVED BY THE INTERNAL REVENUE
14 SERVICE.

15 (C) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL WHO IS ELIGIBLE TO
16 PARTICIPATE IN THE SPECIAL PAY PLAN.

17 (D) "PARTICIPATING EMPLOYEE" MEANS AN ELIGIBLE EMPLOYEE WHO
18 PARTICIPATES IN THE SPECIAL PAY PLAN.

19 (E) "SECRETARY" MEANS THE SECRETARY OF BUDGET AND MANAGEMENT.

20 (F) "SPECIAL PAY PLAN" MEANS A QUALIFIED TRUST ESTABLISHED UNDER §
21 401(A) OF THE INTERNAL REVENUE CODE.

22 33-102.

23 (A) THE SPECIAL PAY PLAN IS IN ADDITION TO ANY OTHER RETIREMENT,
24 PENSION, OR BENEFIT SYSTEM ESTABLISHED BY THE STATE.

25 (B) ~~A DEFERRAL OF COMPENSATION~~ ANY CONTRIBUTION UNDER THE
26 SPECIAL PAY PLAN DOES NOT REDUCE THE AMOUNT OF ANY RETIREMENT, PENSION,
27 OR OTHER BENEFIT PROVIDED BY STATE LAW.

28 SUBTITLE 2. SPECIAL PAY PLAN.

29 33-201.

30 THERE IS A SPECIAL PAY PLAN FOR ELIGIBLE EMPLOYEES AS ALLOWED BY §
31 401(A) OF THE INTERNAL REVENUE CODE.

1 33-202.

2 ~~THE COMPTROLLER, IN CONSULTATION WITH THE SECRETARY, SHALL~~
3 ~~ADMINISTER THE SPECIAL PAY PLAN.~~

4 33-203.

5 ~~(A) THE COMPTROLLER SHALL ADOPT, IMPLEMENT, AND MAINTAIN THE~~
6 ~~SPECIAL PAY PLAN.~~

7 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
8 SECRETARY SHALL ADOPT, IMPLEMENT, AND MAINTAIN THE SPECIAL PAY PLAN.

9 (B) THE SECRETARY MAY DELEGATE ANY OR ALL OF THE SECRETARY'S
10 DUTIES UNDER THIS TITLE TO ANY OTHER AGENCY OR UNIT OF STATE
11 GOVERNMENT.

12 ~~(B)~~ (C) (1) IN ACCORDANCE WITH DIVISION II OF THE STATE FINANCE
13 AND PROCUREMENT ARTICLE, THE COMPTROLLER SECRETARY OR THE SECRETARY'S
14 DESIGNEE SHALL SELECT A DESIGNATED COMPANY OFFERING A SPECIAL PAY PLAN
15 APPROVED BY THE INTERNAL REVENUE SERVICE.

16 (2) THE COMPTROLLER SECRETARY OR THE SECRETARY'S DESIGNEE
17 SHALL APPROVE THE FORM AND CONTENTS OF THE CONTRACT OFFERED TO A
18 DESIGNATED COMPANY.

19 (3) THE COMPTROLLER SECRETARY OR THE SECRETARY'S DESIGNEE
20 SHALL PERIODICALLY REVIEW THE INVESTMENT OPTIONS OFFERED BY THE
21 DESIGNATED COMPANY THROUGH THE SPECIAL PAY PLAN.

22 ~~(C)~~ (D) THE COMPTROLLER SECRETARY OR THE SECRETARY'S DESIGNEE
23 AND THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

24 ~~(D)~~ (E) A PARTICIPATING EMPLOYEE'S INTEREST IN THE SPECIAL PAY PLAN:

25 (1) SHALL IMMEDIATELY BE 100% VESTED AND BE MADE AVAILABLE TO
26 THE EMPLOYEE IN A MANNER CONSISTENT WITH THE INTERNAL REVENUE CODE;
27 AND

28 (2) SHALL BE HELD IN TRUST FOR THE EXCLUSIVE BENEFIT OF THE
29 PARTICIPATING EMPLOYEE.

30 ~~33-204-33-203.~~

31 THE COMPTROLLER SECRETARY OR THE SECRETARY'S DESIGNEE IS NOT
32 RESPONSIBLE FOR:

33 (1) RETIREMENT COUNSELING WITH RESPECT TO THE SPECIAL PAY
34 PLAN;

1 (2) PREPARING OR DISSEMINATING INFORMATION WITH RESPECT TO
2 THE PROVISIONS OF THE SPECIAL PAY PLAN OFFERED BY A DESIGNATED COMPANY;
3 OR

4 (3) ENROLLING, TERMINATING, OR RETIRING A PARTICIPATING
5 EMPLOYEE.

6 ~~33-205-~~33-204.

7 (A) BEFORE ENROLLING A PARTICIPATING EMPLOYEE, THE DESIGNATED
8 COMPANY SHALL PROVIDE TO ELIGIBLE EMPLOYEES, ~~THE COMPTROLLER,~~ AND THE
9 SECRETARY OR THE SECRETARY'S DESIGNEE ANY INFORMATION REQUESTED
10 REGARDING THE DESIGNATED COMPANY, THE SPECIAL PAY PLAN, OR THE
11 INVESTMENT OPTIONS OFFERED BY THE DESIGNATED COMPANY.

12 (B) THE DESIGNATED COMPANY SHALL PROVIDE AND PAY FOR ALL
13 ADMINISTRATIVE, INFORMATIONAL, AND COUNSELING SERVICES WITH RESPECT TO
14 THE SPECIAL PAY PLAN OFFERED BY THE DESIGNATED COMPANY.

15 (C) THE DESIGNATED COMPANY SHALL COOPERATE WITH ~~THE~~
16 ~~COMPTROLLER AND~~ THE SECRETARY OR THE SECRETARY'S DESIGNEE IN
17 CONNECTION WITH ANY CONCERNS THAT RELATE TO ENROLLMENT, TERMINATION,
18 OR RETIREMENT OF A PARTICIPATING EMPLOYEE.

19 (D) THE DESIGNATED COMPANY SHALL DISCLOSE TO THE ~~COMPTROLLER~~
20 SECRETARY OR THE SECRETARY'S DESIGNEE ALL FEES, COMMISSIONS, OR OTHER
21 CHARGES THE DESIGNATED COMPANY IMPOSES OR COLLECTS WITH RESPECT TO
22 THE SPECIAL PAY PLAN.

23 ~~33-206-~~33-205.

24 A DESIGNATED COMPANY SHALL HOLD HARMLESS AND INDEMNIFY THE STATE,
25 ~~THE COMPTROLLER,~~ THE SECRETARY, AND THE OFFICERS, AGENTS, AND EMPLOYEES
26 OF THE STATE, FROM ANY CLAIMS OR DEMANDS ARISING FROM ANY ACT OR
27 OMISSION ON THE PART OF THE DESIGNATED COMPANY OR ITS OFFICERS, AGENTS,
28 OR EMPLOYEES, INCLUDING ANY CLAIM OR DEMAND FOR PAYMENT OF BENEFITS OR
29 DAMAGES ARISING FROM THE FORMATION, EXECUTION, PERFORMANCE, OR
30 TERMINATION OF A SPECIAL PAY PLAN.

31 SUBTITLE 3. PARTICIPATION.

32 33-301.

33 (A) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL ADOPT
34 REGULATIONS THAT ESTABLISH THE NECESSARY CRITERIA THAT AN INDIVIDUAL
35 WHO IS A STATE EMPLOYEE SHALL MEET TO BE CONSIDERED AN ELIGIBLE
36 EMPLOYEE, INCLUDING AGE AND THE MINIMUM AMOUNT OF CONTRIBUTIONS
37 REQUIRED ~~BY~~ WITH RESPECT TO THE PARTICIPATING EMPLOYEE.

1 (B) PARTICIPATION IN THE SPECIAL PAY PLAN IS MANDATORY FOR ANY
2 ELIGIBLE EMPLOYEE.

3 33-302.

4 (A) ~~PARTICIPATING EMPLOYEE CONTRIBUTIONS MADE~~ CONTRIBUTIONS TO
5 THE SPECIAL PAY PLAN SHALL BE MADE BY THE ~~COMPTROLLER~~ SECRETARY OR THE
6 SECRETARY'S DESIGNEE AT NO LATER THAN THE TIME THE PARTICIPATING
7 EMPLOYEE TERMINATES STATE EMPLOYMENT.

8 (B) CONTRIBUTIONS MADE BY THE ~~COMPTROLLER~~ SECRETARY OR THE
9 SECRETARY'S DESIGNEE ON BEHALF OF THE PARTICIPATING EMPLOYEE UNDER
10 SUBSECTION (A) OF THIS SECTION INCLUDE:

11 (1) COMPENSATION FOR THE PARTICIPATING EMPLOYEE'S UNUSED
12 ANNUAL LEAVE UNDER § 9-305 OF THIS ARTICLE; AND

13 (2) ANY OTHER COMPENSATION APPROVED BY THE SECRETARY.

14 (C) ~~THE COMPTROLLER AND THE~~ SECRETARY OR THE SECRETARY'S
15 DESIGNEE SHALL ADOPT REGULATIONS THAT ARE NECESSARY TO CARRY OUT THIS
16 SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That, if the Secretary
18 delegates the Secretary's duties under this Act to any other agency or unit of State
19 government, the Secretary shall notify the Senate Budget and Taxation Committee
20 and the House Appropriations Committee in writing within 30 calendar days.

21 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take
22 effect June 1, 2004.